

Introducing a House Bill or Resolution

Mark J. Oleszek

Analyst on Congress and the Legislative Process

August 6, 2015

Congressional Research Service

7-5700

www.crs.gov

R44001

Summary

Authoring and introducing legislation is fundamental to the task of representing voters as a Member of Congress. In fact, part of what makes the American political process unique is that it affords all Members an ability to propose their own ideas for chamber consideration. By comparison, most other democratic governments around the world rely on an executive official, often called a premier, chancellor, or prime minister, to originate and submit policy proposals for discussion and enactment by the legislature. Legislators serving in other countries generally lack the power to initiate legislative proposals of their own.

In the American political system, ideas and recommendations for legislation come from a wide variety of sources. Any number of individuals, groups, or entities may participate in drafting bills and resolutions, but only Members of Congress may formally introduce legislation, and they may do so for any reason.

When a Representative has determined that a bill or resolution is ready for introduction, it is placed in the box, or “hopper,” at the bill clerk’s desk on the chamber floor when the House is in session. The sponsor must sign the measure and attach the names of any original cosponsors on a form provided by the Clerk’s office. Cosponsors do not sign the bill. Since the 112th Congress, House rules have required Members to provide at the time of introduction a statement of constitutional authority indicating why Congress has the authority to enact the proposed bill or joint resolution. There is no House rule that introduced bills and resolutions must be prepared by the House Office of the Legislative Counsel, but the office plays an important role by providing Members and staff, at their request, with drafts of legislation. Use of the office by Members and staff is nearly universal.

Once introduced, the Speaker refers legislation to one or more committees based primarily on how its contents align with the subject matter jurisdictions of committees established in clause 1 of House Rule X. In practice, the Office of the Parliamentarian advises the Speaker in these referral decisions, and the Parliamentarian’s recommendations are followed in virtually every case.

This report is intended to assist Members and staff in preparing legislation for introduction. Its contents address essential elements of the process, including bill drafting, the mechanics of introduction, and the roles played by key House offices involved in the drafting, submission, and referral of legislation. Statistics on introduced measures are presented in the final section, and a brief explanation of patterns of introduction over time is also provided.

Contents

Developing Ideas for Legislation.....	1
Drafting Legislation.....	2
Introducing a Bill or Resolution	3
Statistics on Introduced Measures	6

Figures

Figure 1. The “Hopper”	4
------------------------------	---

Tables

Table 1. Statistics on Introduced Measures, 1973-2014	6
---	---

Contacts

Author Contact Information.....	8
Acknowledgements.....	8

Developing Ideas for Legislation

“Ideas can come from anywhere,” a scholar of American politics once wrote.¹ To be sure, ideas and recommendations for legislation come from a wide variety of sources, such as individual Representatives; committees and other House working groups; legislative staff; party and chamber leaders; executive branch agencies and the White House; states and localities; members of the media; citizens; and interest groups. Any or all of these individuals or entities may participate in drafting legislation, but only a Member of Congress may formally introduce legislation.² Some common considerations taken into account when drafting a bill include the following:

What problem does the bill seek to address? Understanding the source of a problem is necessary in order to properly address it. An abundance of information is available to Members in the form of reports, studies, and presentations offered by a wide range of individuals, groups, and organizations, including CRS. Soliciting expert testimony in the context of a committee hearing is another common method by which the House gathers relevant information for use in policymaking.³

To what committee(s) is it likely to be referred? Committee referral can matter because one committee might be especially receptive to the proposed legislation in comparison to another committee. Members may also prefer that their bill be referred to a committee on which they serve in order to ensure continued involvement at the committee stage of proceedings.

Will the bill attract cosponsors? Cosponsorship conveys a Member’s support for a measure, so bills that attract many cosponsors could be seen as enjoying broad support within the chamber.⁴ A measure with many cosponsors, especially if they include committee and party leaders, could encourage the relevant committee chair to take some action on the legislation, such as hold hearings on it.

Does it have bipartisan appeal? Building a coalition of support for a proposal can take time, and some amount of bipartisan cooperation may be required to secure final passage. Measures that are limited in scope but have broad bipartisan appeal are often brought to the House floor under suspension of the rules, a parliamentary procedure that limits debate and amendment and requires a supermajority vote of two-thirds for a measure to pass.⁵

¹ John Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown and Company, 1984), p. 75. Kingdon’s account of the policymaking process offers insights into why some ideas but not others make their way into law. See also CRS Report RS21169, *Sources of Legislative Proposals: A Descriptive Introduction*, by Judy Schneider.

² Delegates from the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Resident Commissioner from Puerto Rico may also introduce legislation. For information on how U.S. territories are represented in Congress, see CRS Report R40555, *Delegates to the U.S. Congress: History and Current Status*, by Christopher M. Davis.

³ For information on how to prepare for a committee hearing, see CRS Report 98-488, *House Committee Hearings: Preparation*, by Christopher M. Davis.

⁴ The mechanics of sponsoring and cosponsoring legislation in the House can be found in CRS Report RS22477, *Sponsorship and Cosponsorship of House Bills*, by Mark J. Oleszek.

⁵ The essential elements of the suspensions procedure are explained in CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

What are the budgetary implications? The House places a number of restrictions on legislation with budgetary consequences. For instance, if a proposal adds to the federal deficit, it may be subject to a point of order on the chamber floor for violating congressional budget rules (many of which are codified in the Congressional Budget Act of 1974).⁶ Support for a measure may also hinge on how its costs are paid for. Members may agree about the merits of a bill but disagree with how its provisions are funded.

Should companion legislation be introduced in the Senate? To become law, a bill or joint resolution must pass both houses of Congress in identical form (the same text and bill number) and be signed by the President.⁷ For this reason, House sponsors sometimes encourage allies in the Senate to introduce identical or similarly worded legislation to expedite bicameral consideration.⁸ Companion bills might also attract wider public and Member attention to the issues addressed in the legislation.

Is the measure best introduced at the beginning, in the middle, or toward the end of a Congress? Timing the introduction of a measure can be important. Comprehensive legislation is likely to require a great deal of time to work through, both in committee and on the floor. An early introduction will give the House more time to examine the measure's provisions. Advantage might also be gained by being the first to address an issue. Those who move first tend to attract media attention and may be seen by their colleagues as exercising leadership in that particular policy area.

Strategic delay is another option. This approach might provide more time for an individual or committee to study the issue and build support for a preferred solution. To be sure, many bills do not follow a linear (or "regular order") legislative process—introduction, consideration in committee, and arrival on the floor for further debate and amendment. For example, a legislative proposal that had languished in committee might suddenly be taken up because it deals with an unfolding crisis or emergency.

Drafting Legislation

There is no House rule that introduced bills and resolutions must be prepared by the House Office of the Legislative Counsel, but the office plays an important role by providing Members and staff, at their request, with drafts of legislation.⁹ Use of the office by Members and staff is nearly universal. Its staff attorneys are both subject matter specialists and experts in legislative drafting, and they focus almost exclusively on policy issues within their areas of expertise. Legislative attorneys are often assigned to serve a specific committee or committees as a kind of nonpartisan, shared staff, and they work closely with committee members and staff to ensure that the bill's

⁶ For information on the enforcement of budget rules, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno. For an overview of the federal budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by Bill Heniff Jr.

⁷ Only bills and joint resolutions can make or change law, while simple and concurrent resolutions are used to address matters that are internal to one or both chambers of Congress. For examples of how each is used, see CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

⁸ For information on methods to resolve bicameral differences, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

⁹ A brief guide to drafting legislation is available for download on the Office of Legislative Counsel's website, at http://legcounsel.house.gov/HOLC/Resources/quick_guide.pdf.

language and form matches the intent of its sponsor and adheres to drafting rules and linguistic traditions of the House.¹⁰

Several drafts may be required before a measure is ready for formal introduction.¹¹ Those drafting legislation may seek assistance from the Office of Legislative Counsel at any stage. All communications with the office are treated as confidential. The office is located in Room 337 of the Ford House Office Building and can be reached at extension 5-6060 or by sending an email request to legcoun@mail.house.gov.¹²

Following introduction, the Speaker refers legislation to the appropriate committee(s) based primarily on how its contents align with the subject matter jurisdictions of committees established in clause 1 of House Rule X. According to clause 2 of House Rule XII, the Speaker shall refer legislation

[I]n such a manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon.¹³

Technically, the Office of the Parliamentarian advises the Speaker on committee referrals. In practice, the Parliamentarian has been delegated the responsibility for committee referrals.¹⁴ Representatives and staff involved in drafting legislation may consult the Office of the Parliamentarian regarding the committee(s) to which their draft measure might be referred. The office is located in Room H-209 of the Capitol (5-7373).

Introducing a Bill or Resolution

The formal procedures that govern the introduction of legislation are few and are found in House Rule XII.¹⁵ “The system for introducing measures in the House is a relatively free and open one,” wrote former House Parliamentarian William Holmes Brown.¹⁶ House rules do not limit the number of bills a Member may introduce.¹⁷ Members may introduce legislation for any number of

¹⁰ Additional information on the Office of Legislative Counsel can be found in CRS Report RS20735, *Office of Legislative Counsel: House*, by Matthew E. Glassman.

¹¹ Bills and resolutions are collectively referred to as “measures” or “legislation.” Only bills and joint resolutions can make or change law, while simple and concurrent resolutions are used to address matters that are internal to one or both chambers of Congress. For examples of how each is used, see CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

¹² Detailed information on legislative drafting can be found on the office’s website, at <http://legcounsel.house.gov/>.

¹³ U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the One Hundred Fourteenth Congress*, H.Doc. 113-181, 113th Cong., 2nd sess. (Washington: GPO, 2015), §816, p. 615.

¹⁴ For additional information on committee referral, see “The Referral of Legislation in the House” in CRS Report R41083, *House Committee Markups: Manual of Procedures and Procedural Strategies*, by Michael L. Koempel and Judy Schneider.

¹⁵ See also William Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents and Procedures of the House* (Washington: GPO, 2011), ch. 6, §6, pp. 168-169.

¹⁶ William Holmes Brown, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, (Washington: GPO, 1996), ch. 27, §1, p. 547.

¹⁷ Introduced legislation is often referred to as being “dropped,” a literal reference to a bill being dropped in the hopper.

reasons, and they may do so on behalf of another individual, entity, or group “by request.”¹⁸ Between 1973 and 2014, Members introduced an average of about 20 bills and resolutions per Congress. Statistics on introduced measures are presented in **Table 1**.

When a Representative has determined that a bill or resolution is ready for introduction, it is placed in the box, or “hopper,” at the bill clerk’s desk on the chamber floor when the House is in session, including a “pro forma” session.¹⁹ The hopper is pictured in **Figure 1**. The sponsor must sign the measure and attach the names of any original cosponsors on a form provided by the Clerk’s office, which is located in Room H-154 of the Capitol Building (5-7000).²⁰ Cosponsors do not sign the bill.²¹ The bill as drafted by legislative counsel leaves space both for the insertion of a bill number, which is assigned chronologically based on the date of introduction, and for the Parliamentarian’s office to note the committee(s) to which the measure was referred. A Member need not seek recognition from the chamber’s presiding officer in order to introduce a measure.²² Following introduction, Members often summarize the purpose and merits of their proposal in a statement published in the “Extension of Remarks” section of the *Congressional Record*.²³



Figure 1. The “Hopper”
Source: Photo courtesy of the Clerk of the House

Since the 112th Congress, House rules have required Members to provide at the time of introduction a statement of constitutional authority indicating why Congress has the authority to enact the proposed bill or joint resolution.²⁴ The bill clerk does not accept legislation for introduction that lacks a constitutional authority statement. Clause 7(c) of Rule XII establishes that the statement must be as “specific as practicable,” and must be attached to the bill when it is dropped in the hopper for introduction. If no such statement is provided, then the measure will be

¹⁸ Presidents, citizens, interest group representatives, and others may ask a Member to introduce legislation on their behalf. Clause 7 of House Rule XII allows a legislative sponsor who wants to officially acknowledge such a request to include the words “by request” following the sponsor’s name on the introduced bill.

¹⁹ Staff may also have legislation introduced on a Member’s behalf by delivering it by hand to the cloakroom. The Republican cloakroom is located in Room H-223 of the Capitol (5-7350), and the Democratic cloakroom is in Room H-222 (5-7330). Staff customarily write their name and contact information on the back of the bill when it is introduced.

²⁰ A form to add cosponsors is available on HouseNet, the House’s internal website.

²¹ For information on sponsoring and cosponsoring legislation in the House, see CRS Report RS22477, *Sponsorship and Cosponsorship of House Bills*, by Mark J. Oleszek.

²² In the unlikely event that a measure is erroneously introduced in a Member’s name, that Member may raise a “question of privilege” on the House floor to correct the mistake. On questions of privilege, see CRS Report 98-411, *Questions of Privilege in the House*, by James V. Saturno.

²³ Written statements can be delivered to the cloakroom or to the Reporters of Debate located in Room HT-59 of the Capitol. See <https://housenet.house.gov/legislative/> for forms and directions to put statements in the *Record*.

²⁴ Constitutional authority forms are available for download on the website of the Office of Legislative Counsel: <http://legcoun.house.gov/members/HOLC/Resources/casform.pdf>. The constitutional authority of Congress is set forth beginning in Article 1, Section 1 of the U.S. Constitution, which states that “all legislative powers herein granted shall be vested in a Congress of the United States.” Article 1, Section 8 of the founding document contains additional clarity regarding Congress’s enumerated powers. For further information on the kinds of authority that could be cited to meet this requirement, see CRS Report R41548, *Sources of Constitutional Authority and House Rule XII, Clause 7(c)*, by Kenneth R. Thomas, as well as guidance issued from the House Legislative Counsel, at http://legcoun.house.gov/members/HOLC/Resources/const_auth_statement.html. The statement is not required to accompany the introduction of simple or concurrent resolutions.

returned to its sponsor.²⁵ A point of order cannot be lodged against a bill based on the content of a constitutional authority statement.²⁶ However, if a measure will be considered under the terms of a special rule, then Members may send a written request to the chair of the Rules Committee for debate to occur on the constitutionality of the proposed measure.²⁷ If at least 25 Members sign the request, the chair will schedule up to 20 minutes of floor debate, evenly divided between a member specified in the letter and the majority bill manager, on “the constitutionality of a measure considered under a rule.”²⁸

A sponsor may not reclaim a measure he or she has placed in the hopper after it has been assigned a number and referred to committee (a process that normally takes one day). Once a measure has been numbered and referred, it becomes the property of the House and cannot be modified by the sponsor. It is too late at this point to make any changes to the bill—however cosmetic they might be—except by amending the bill on the House floor during its consideration.²⁹ Introduced bills or resolutions can be taken up by the House even if the sponsor resigns from the House or dies.

In the first days of a new Congress, hundreds of bills and resolutions are introduced.³⁰ Measures are usually numbered sequentially based on the date of introduction, but Representatives may seek to reserve numbers in advance by communicating with the Parliamentarian’s office prior to introduction. Bill numbers are sometimes seen as a way to provide shorthand meaning to the legislation, enhance its visibility, or confer symbolic importance. Measures have sometimes been assigned the same number for several Congresses, perhaps because lawmakers and others have grown accustomed to referring to a bill by its number. For instance, sponsors of tax reform proposals may request H.R. 1040 as a bill number to draw attention to the 1040 tax form many individuals use to pay federal income taxes.³¹ By the same logic, a bill addressing ocular health or medical coverage for eyeglass and contact lenses might take the number H.R. 2020 because 20/20 is considered normal vision.

In recent Congresses, the House has ordered that bill numbers H.R. 1 through H.R. 10 be reserved for assignment by the majority leader and numbers H.R. 11 through H.R. 20 be reserved for the minority leader.³² These bills, sometimes called “message” bills, tend to generate considerable attention and coverage because they often represent the top agenda items of each political party.³³

²⁵ The content of a constitutional authority statement is not evaluated at the time of introduction. Rather, the Clerk simply notes whether or not the statement was provided. Protocols of the majority leadership provide additional clarity on the amount of detail these statements should contain. See <http://www.majorityleader.gov/Protocols/>.

²⁶ For information on raising, debating, and deciding points of order, see CRS Report 98-307, *Points of Order, Rulings, and Appeals in the House of Representatives*, by Valerie Heitshusen.

²⁷ A brief primer on special rules is provided in CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

²⁸ See the “Debate on Constitutionality of Proposed Measures” protocol on the majority leader’s website.

²⁹ On House amending practices, see CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

³⁰ Legislation automatically dies if not enacted into law by the time Congress adjourns at the end of its second session. For additional consideration to occur, the measure must be re-introduced as a new bill in the following Congress.

³¹ In the 114th Congress, H.R. 1040 is a tax reform proposal that would give individuals and businesses the option of paying a flat tax. Similarly worded flat tax legislation has been introduced as H.R. 1040 since the 109th Congress, and prior to that other kinds of tax reform plans took the 1040 designation.

³² *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H9.

³³ For an analysis of the legislative process surrounding “message” bills, see C. Lawrence Evans, “Committees, Leaders, and Message Politics,” in *Congress Reconsidered*, ed. Lawrence Dodd and Bruce Oppenheimer, 7th ed. (continued...)

Statistics on Introduced Measures

The number of bills and resolutions introduced in a given Congress fluctuates over time as **Table 1** shows. Some of this variation can be explained on the basis of changes in House rules and practices. From 1968 to 1978, for instance, a limit of 25 was placed on the number of cosponsorships a measure could obtain. One effect of this rule was to encourage the introduction of identically worded legislation (with a new bill number) to allow additional Members to sign on as cosponsors. The cosponsorship limit was removed in 1979, which accounts in part for the drop in introduced measures between the 95th and 96th Congresses.³⁴ No longer was it necessary to introduce duplicative bills for the purpose of gaining cosponsors.

Table 1. Statistics on Introduced Measures, 1973-2014

Congress (Years)	Measures Introduced	Member Average	Measures Passed by House	Passage Rate
93 rd (1973-74)	21,095	48.1	1,485	7.0%
94 th (1975-76)	18,327	41.7	1,234	6.7
95 th (1977-78)	16,826	38.3	1,272	7.6
96 th (1979-80)	9,552	21.8	1,185	12.4
97 th (1981-82)	8,480	19.3	818	9.6
98 th (1983-84)	7,650	17.4	1,027	13.4
99 th (1985-86)	7,174	16.3	1,021	14.2
100 th (1987-88)	6,967	15.8	1,116	16.0
101 st (1989-90)	7,378	16.8	1,050	14.2
102 nd (1991-92)	7,597	17.3	1,088	14.3
103 rd (1993-94)	6,454	14.7	909	14.1
104 th (1995-96)	5,185	11.8	897	17.3
105 th (1997-98)	5,858	13.3	1,002	17.1
106 th (1999-00)	6,781	15.4	1,288	19.0
107 th (2001-02)	6,923	15.7	1,110	16.0
108 th (2003-04)	6,858	15.6	1,245	18.2
109 th (2005-06)	8,033	18.3	1,280	15.9
110 th (2007-08)	9,313	21.2	1,965	21.1
111 th (2009-10)	8,721	19.8	1,751	20.1
112 th (2011-12)	7,796	17.7	755	9.7
113 th (2013-14)	6,900	15.6	833	12.1

(...continued)

(Washington DC: Congressional Quarterly Press, 2001), pp. 217-243.

³⁴ This rules change occurred by way of H.Res. 86 (95th Congress), which passed the House on October 10, 1978, and took effect at the outset of the 96th Congress (1979-1980).

Congress (Years)	Measures Introduced	Member Average	Measures Passed by House	Passage Rate
Congress Average	9,041	20.6	1,366	15.1

Source: Legislative Information System (LIS)

Notes: Measures include all public bills (H.R.), joint resolutions (H.J.Res.), concurrent resolutions (H.Con.Res.), and simple resolutions (H.Res.) introduced in the House during each Congress. This includes measures that committees reported as original bills. “Member average” was calculated by dividing the number of measures introduced during a given Congress by the membership of the House during that time. “Passage rate” was determined by dividing the number of introduced measures by the number that passed the House during each two-year period. Members, Delegates, and Resident Commissioners are all eligible to introduce legislation. Delegates from the District of Columbia, the Virgin Islands, and Guam served in the House throughout the 1973 to 2014 period, as did the Resident Commissioner from Puerto Rico. A Delegate representing American Samoa was added to the House at the outset of the 97th Congress (1981-1982), and the Northern Mariana Islands gained a Delegate beginning in the 111th Congress (2009-2010). The current membership of the House consists of 435 Members, 5 Delegates, and a Resident Commissioner.

The House has also sought to reduce the amount of commemorative legislation it considers. The rules for the 104th Congress (1995-1996), for instance, included new restrictions on the introduction of measures that would express a commemoration “through the designation of a specified period of time.”³⁵ The decline in the number of introduced measures in that Congress might be attributed at least in part to the new rule. The 114th Congress (2015-2016) maintains this ban on temporal commemoratives, and Rule 28 of the House Republican Conference expanded the definition of what constitutes a commemoration and placed additional limits on considering these kinds of measures.³⁶

Most measures are introduced by individual Members. Five House committees (Appropriations, Budget, Ethics, House Administration, and Rules) may also draft and report an “original” bill on specific subjects identified in House rules.³⁷ This means that those particular committees do not have to wait for measures to be referred to them in order to act. The committee chair is often considered the sponsor when a committee reports original legislation, although the measure is perhaps best understood as a product that incorporates views and input from other committee members as well.

³⁵ According to clause 5 of House Rule XII, “a bill or resolution, or an amendment thereto, may not be introduced or considered in the House if it establishes or expresses a commemoration.” For other ways to celebrate individuals, groups, or events, see CRS Report R43539, *Commemorations in Congress: Options for Honoring Individuals, Groups, and Events*, coordinated by Jacob R. Straus.

³⁶ House Republican Conference rules are available online at <http://www.gop.gov/114th-rules/>. Conference Rule 28 states that legislation may not be considered under suspension of the rules if it “expresses appreciation, commends, congratulates, celebrates, recognizes the accomplishments of, or celebrates the anniversary of, an entity, event, group, individual, institution, team or government program; or acknowledges or recognizes a period of time for such purposes.”

³⁷ Subjects on which original legislation may be drafted include general appropriations bills and continuing resolutions (if reported after September 15) from the Appropriations Committee; budget resolutions and reconciliation bills from the Budget Committee; resolutions recommending action to address the conduct of a Member, officer, or employee of the House from the Ethics Committee; measures involving enrolled bills, contested elections, and House expenditures from the House Administration Committee; and rules of the House and order of business resolutions (“special rules”) from the Rules Committee.

Author Contact Information

Mark J. Oleszek
Analyst on Congress and the Legislative Process
moleszek@crs.loc.gov, 7-7084

Acknowledgements

A short version of this report was originally prepared by CRS Specialist Richard C. Sachs. Please direct any inquiries to the listed author.